



Billing Code 8120-08 (P)

TENNESSEE VALLEY AUTHORITY

Muscle Shoals Reservation Redevelopment, Colbert County, Alabama

AGENCY: Tennessee Valley Authority (TVA)

ACTION: Issuance of Record of Decision (ROD)

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's procedures for implementing the National Environmental Policy Act (NEPA). TVA has decided to adopt the preferred alternative in its final environmental impact statement (EIS) for the redevelopment of the Muscle Shoals Reservation (MSR) in Colbert County, Alabama. The notice of availability (NOA) of the Final Environmental Impact Statement for the Muscle Shoals Reservation Redevelopment was published in the Federal Register on November 18, 2011. Under this alternative, Unrestricted Land Use, after declaring a large portion of the MSR surplus, TVA would dispose of the property without land use restrictions other than those designed to protect TVA's program interests or to meet legal or environmental requirements.

FOR FURTHER INFORMATION CONTACT: Charles P. Nicholson, Principal Program Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11D, Knoxville, Tennessee 37902-1499; telephone (865) 632-3582 or e-mail cpnicholson@tva.gov.

SUPPLEMENTARY INFORMATION: TVA manages public lands to protect the integrated operation of TVA reservoir and power systems, to provide for appropriate public use and enjoyment of the reservoir system, and to provide for continuing economic growth in the Tennessee Valley. TVA assumed custody and control of the 3,036-acre Muscle Shoals/Wilson Dam Reservation in Colbert County, Alabama, in 1933 when Congress directed its transfer to TVA from the U.S. War Department. TVA has since managed 2,600 acres of this nonreservoir property as the MSR.

Since acquisition of the land, TVA's need for this amount of MSR property has changed. TVA's programs have changed over time, and TVA has greatly reduced its operations and employment at Muscle Shoals. TVA has determined that a portion of its MSR is no longer essential to its needs. Local public and private sector developers have been requesting use of this land for many years. In accordance with its economic development mission, TVA believes sale and redevelopment of up to 1,400 acres of the MSR (the "MSR study area") would help stimulate the local and regional economy. The sale of this land would also help TVA reduce its operations and maintenance costs and help TVA reduce its environmental footprint.

Public Involvement

TVA published a notice of intent to prepare an EIS in the Federal Register on June 18, 2009. The NOA of the draft EIS was published in the Federal Register by the U.S. Environmental Protection Agency (USEPA) on January 14,

2011. TVA accepted comments on the draft EIS until February 28, 2011. Approximately 80 people attended a public meeting on February 3, 2011, in Muscle Shoals, Alabama. TVA received 146 comment submissions from 133 individuals and seven federal and state agencies. The majority of the commenters did not state a preferred future use of the land. Commenters expressed concerns about TVA's purpose and need for the proposal; effects on environmental resources, including wildlife, woodlands, wetlands, aesthetics, and historic buildings and structures; health and safety; socioeconomics and environmental justice; specific future land uses; the role of the comprehensive master plan; and the adequacy of the environmental analysis. Agencies expressed concerns about effects on environmental resources, lack of details about future land uses, cumulative effects analysis, and public health and safety.

After considering and responding to all substantive comments, clarifying action alternatives, and developing a new alternative, i.e., Alternative F, TVA issued the final EIS. The final EIS identifies Alternative F, Unrestricted Land Use, as TVA's preferred alternative. The NOA of the final EIS was published in the Federal Register on November 18, 2011.

TVA received comment letters on the final EIS from the USEPA and the Nuclear Regulatory Commission (NRC). TVA has considered these comments, neither of which raised significant new issues or provided significant new information, in making its decision.

The NRC notified TVA that there may be facilities within the MSR study area that come under current NRC licenses and guidance. The letter stated that coordination with NRC is required prior to the sale of the MSR property. TVA will continue to coordinate with NRC in the development of the comprehensive master plan and the subsequent sale of the MSR property.

USEPA reiterated its preference for Alternative B, Conservation, because it is the most environmentally protective alternative. USEPA expressed concerns that there are no binding commitments being made by TVA with respect to future land use and development of the MSR and that TVA make these binding commitments in the ROD. USEPA also expressed concerns that the development of the comprehensive master plan and the NEPA process have not been concurrent efforts. It was recommended that TVA and stakeholders include protections to environmentally sensitive areas/resources and encourage low impact development.

In response to USEPA's comment about the comprehensive master planning process, TVA will release a draft of the comprehensive master plan and hold a public meeting to obtain stakeholder comments. TVA will then consider these comments, finalize the plan, and make the document available on TVA's website. TVA will then formally decide whether to adopt the comprehensive master plan and document this decision in a second ROD in the Winter of 2013. TVA will continue to encourage the participation of the environmental justice communities in the public review process.

Alternatives Considered

Based on comments received on the draft EIS, many readers misunderstood the Action Alternatives presented in the draft EIS. Therefore, TVA added a new Action Alternative and the definitions of Alternatives B through E were changed in the final EIS.

In the final EIS, TVA evaluated six alternatives intended to address a reasonable range of likely future land uses of the 1,400-acre MSR study area. The alternatives include Alternative A – No Action; Alternative B – Conservation; Alternative C – Commercial, Retail, and Residential; Alternative D – Industrial; Alternative E – Mixed Use; and Alternative F – Unrestricted Land Use.

Under all Action Alternatives, the MSR study area would be sold at public auction in accordance with Section 31 of the TVA Act and would be developed in accordance with guidelines described in a comprehensive master plan. The sale would not include the phosphate slag storage area, which may be made available by easement for a utility corridor. Under any of the Action Alternatives, TVA anticipates an approximate 20-year plus development build-out of this property.

Under Alternative A, No Action, TVA would not declare the MSR study area surplus to its needs, and it would remain in federal ownership. TVA would continue to manage the property consistent with its 1996 *Muscle Shoals/Wilson Dam Reservation Land Use Plan*. If other future land sales, transfers, or disposal

actions were considered by TVA, those actions would require independent environmental reviews at that time.

Under Alternative B, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for conservation of natural resources and/or for sustainable limited impact development (LID). Other types of land uses, such as heavy industry, residential development, and commercial development, would not be allowed. Types of LID likely under this alternative include those that generate minimal waste streams and have a small environmental footprint. The reuse of existing buildings and infrastructure would be preferred over new construction. Some natural resources could be integrated into an overall conservation theme. This could involve inclusion of some land with valued resources, such as streams, wetlands, floodplains, woodlands, into areas of future parks, visual or noise buffers, or green space. Typical examples of future land uses under this alternative could include recreation, nature and historic interpretation, open green spaces, ecotourism, botanical gardens, environmental education, and wildlife viewing and management.

Under Alternative C, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for a mixture of commercial, retail and residential uses. Other uses (e.g., heavy industrial uses) would be prohibited. Typical examples of future land uses likely under this alternative could include mall, theaters, government buildings, gas stations, department stores, restaurants, self-storage buildings, health care institutes, retail shopping,

community centers, residential buildings, and religious and educational institutes. Most of the MSR study area is suitable for commercial, retail and residential uses. Consequently, it could take on a suburban or urban character.

Under Alternative D, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for industrial development purposes. Other uses, including residential, commercial, retail and conservation, would not be allowed. Industry can be generally defined as any type of economic activity producing goods or services for consumers. Possible industries could include primary (mining, growing, forestry, etc.), secondary (lumber milling, metal fabrication, refining oil), tertiary (service industries such as civil service, education, etc.), or quaternary (research and development). All land within the MSR study area could be used for industrial purposes. Under this alternative, the amount of land actually used or required by future industries could vary from a few hundred acres to the entire MSR study area. Depending on the number of industries and the extent of industrial development, the character of the MSR study area could range from that of a maintained open area with some industrial development to that of an industrial park.

Under Alternative E, TVA would declare the MSR study area surplus and sell it with the requirement that it be used for a mixture of conservation and sustainable LID; commercial, retail, and residential; and industrial uses. Potential site development under this alternative would generally include a mixture of land uses described under Alternatives B through D.

Under Alternative F, TVA would declare the MSR study area surplus and dispose of the property without land use restrictions other than those designed to protect TVA's program interests or to meet legal or environmental requirements. TVA would not specify that land on the MSR study area be used for a particular purpose, but instead would allow future uses on the property to be driven by environmental resources and constraints taken into account in the development of the comprehensive master plan and subsequent local zoning or other appropriate land use ordinances. Although TVA would not require a particular type of land uses under Alternative F, the property likely would be used or developed for one or more of the reasonably foreseeable uses identified in Alternatives B through E.

Updated Information

Since the final EIS was published in November 2011, TVA has been developing the comprehensive master plan in concert with the local community. During this process, TVA identified 400 acres of land (mainly around the TVA-retained solid waste management units) that should be retained by TVA due to ongoing TVA business needs and limited development opportunities due to prior industrial operations. TVA also determined that it should retain ownership of the Western Area Radiological Laboratory and sell the TVA Credit Union site. TVA completed an evaluation of the environmental effects of including the 1.8-acre TVA Credit Union in the proposed MSR study area in November 2012. TVA staff subsequently proposed to the TVA Board of Directors (TVA Board), and the TVA

Board approved, the disposal of approximately 1,000 acres instead of the 1,400 acres analyzed in the final EIS.

In support of the development of the comprehensive master plan, TVA conducted additional wetland and floodplain studies to gain a better perspective of the location of these resources. As a result of the survey, approximately 177 acres of wetlands were determined to be present on the MSR study area, a small increase from the 164 acres identified in the final EIS. To ensure compliance with the Clean Water Act and Executive Order (EO) 11990 (Protection of Wetlands), the disposal of wetlands on the MSR will be subject to the mitigation measures described below.

The final EIS contained floodplain information based on 2010 Federal Emergency Management Agency (FEMA) data. TVA conducted a flood study of Pond Creek on the MSR in September 2012 to update the FEMA information. The study results showed that the 100-year and 500-year floodplains cover a larger area than identified in the final EIS. To ensure compliance with EO 11988 (Floodplain Management), TVA will place a requirement in the deed, transfer, or other conveyance document that any proposal for future land-based improvements or water use facilities in the floodplain would be subject to TVA review and approval prior to construction (See Mitigation Measures Section below).

TVA previously granted agricultural licenses on three areas of the MSR study area, as detailed in Section 3.9 of the EIS. TVA has since terminated those agricultural licenses in accordance with their terms.

Environmentally Preferred Alternative

The Environmentally Preferred Alternative is Alternative B (Conservation), under which there would be a deliberate effort to conserve sensitive resources, i.e., wetlands, historic properties and woodlands, and to encourage development with minimal environmental impacts.

Decision

On November 15, 2012, the TVA Board declared 1,000 acres of the MSR to be surplus to TVA's needs and authorized the sale of such acreage at public auction upon a determination by the Senior Vice President, Economic Development, following consultation with the Vice President, Property and Natural Resources, that market conditions warrant selling the fee simple interest in the 1,000 acres or a portion thereof. TVA will develop a comprehensive master plan with the Northwest Alabama Cooperative District and other appropriate local, state, or federal authorities for the holistic redevelopment of the MSR property; the comprehensive master plan is scheduled for completion in Fall/Winter 2013. The sale of the property would be in accordance with TVA's preferred alternative, Alternative F - Unrestricted Land Use in the final EIS. This

decision incorporates mitigation measures that would reduce the potential for adverse impacts to the environment. These measures are listed below.

Mitigation Measures

TVA would comply with the following applicable laws, regulations, EOs, and obligations associated with existing agreements.

- TVA would warrant in the sale deed that the property has been cleaned up to the extent believed necessary to protect human health and the environment and that the U.S. will perform any cleanup that becomes necessary in the future as a result of contamination that occurred prior to the sale.
- Approximately 17 acres of land has been remediated (i.e., cleaned up) to industrial screening level. No land within the 2,260-acre area covered by the existing Resource Conservation and Recovery Act Permit would be sold or transferred from federal ownership unless the land is conveyed at the unrestricted use level or with the appropriate environmental covenants and restrictions in the deed, transfer, or other conveyance document. Additional land use restrictions may be applicable as required by Alabama's Uniform Environmental Covenants Act.
- Consistent with TVA implementation procedures for EO 11990, all future owners shall avoid construction within wetland areas without TVA

approval. Unless there is no practicable alternative, development may not occur in identified wetland areas.

- Consistent with TVA implementation procedures for EO 11988, all future owners shall avoid construction of obstructions within the limits of the 100-year floodplain without appropriate local government authorization and approval under Section 26a of the TVA Act. Unless there is no practicable alternative, development may not occur in floodplain areas.
- TVA will comply with the terms and conditions of a September 18, 2001 agreement with the Alabama Department of Transportation and the Federal Highway Administration regarding use of Transportation Enhancement Project funds for construction of the 1-mile segment of the National Recreation Trail Complex trail located on the south side of Reservation Road.
- Additional land use restrictions may be applicable as required by Alabama's Uniform Environmental Covenants Act and would be enforced by the Alabama Department of Environmental Management.

TVA would be responsible for requiring, monitoring, and enforcing the following mitigation measures. To the extent practicable, this could be accomplished by placing conditions in the land transfer agreement and coordinating with Alabama Department of Environmental Management's Environmental Covenants Act, where applicable.

- The only permissible use of the phosphate slag storage area is for a utility corridor to the Tennessee River to support any needed infrastructure development on the MSR study area. TVA would not transfer this land for future development but would make it available under specific use agreements, such as easements. Because of environmental and reservoir operations constraints along the left-descending (south bank) shoreline of the Tennessee River in the vicinity of the utility corridor, TVA would not approve a barge terminal, commercial dock, or other similar shoreline facility.
- Total annual exposure to any person within the phosphate slag storage area is to remain restricted to no more than 500 hours per year.
- If conditions at the phosphate slag storage area are altered and it becomes necessary to reevaluate radiation exposure, TVA will verify in consultation with the Alabama Department of Public Health any change to the phosphate slag storage area that would allow increased exposure times. This would include any effort to mitigate radioactive levels at the site through the use of soil cover or caps of various materials.
- If it becomes necessary through the proposed use of the phosphate slag storage area for subsurface infrastructure enhancements (e.g., buried pipeline), TVA would conduct further radiological measurement and monitoring to determine a worker's potential exposure to ensure safety.

- No subsurface disturbance or other excavation of buried materials would be allowed within the low-level radioactive waste burial site.
- TVA would not allow removal of groundwater for drinking water (i.e., potable use purposes) from anywhere on the MSR study area.
- TVA would adhere to the stipulations in the final executed Memorandum of Agreement between TVA and the Alabama State Historic Preservation Officer to mitigate for the loss of properties eligible for inclusion in the National Register of Historic Places. Such mitigation includes imposition of architectural controls and design guidelines on new owners and consideration of these properties in the comprehensive master plan. TVA would adhere to required measures through inclusion of requirements in the transfer deed.
- Site 1CT495, the remnants of Wilson Power Plant foundations, shall be avoided during any construction in the utility corridor to the Tennessee River.
- In the event of construction within the utility corridor, TVA would take into account the location of the Rockpile Hiking Trail and the paved trail complex on the north side of Reservation Road and, to the extent practicable, avoid trail closure or reduce effects of trail usage through planning or other design features.

- An approximate 900-foot section of paved National Recreation Trail Complex, including a protective corridor, on the Multipurpose Building parcel would be (a) retained by TVA, (b) preserved and managed for public recreation use under an agreement (e.g., easement) between TVA and a new landowner, or (c) relocated to skirt the boundaries of the Multipurpose Building parcel.
- Prior to any TVA land or buildings being transferred from federal ownership under any of the Action Alternatives, TVA would assure that any required environmental due diligence assessments are completed.

The final EIS identified routine and nonroutine measures to which future landowners could implement voluntarily or be required by agencies to comply with other federal, state, or local regulations. These measures along with the above mitigation measures would be taken into consideration in the development of the comprehensive master plan, which would be completed and finalized by the Northwest Alabama Cooperative District and TVA prior to the sale of the MSR property.

Dated: September 5, 2013

John J. Bradley,

Senior Vice President, Economic Development

Bruce S. Schofield,

Vice President, Property and Natural Resources

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